

### **REMARKS**

This is in response to the Office Action dated December 22, 2004, and the references cited therewith. Claims 1 and 11 are amended herein. Claims 1-20 remain pending in this application.

#### **§102 and §103 Rejection of the Claims**

Claims 1-3, 9-13, 19 and 20 were rejected under 35 USC § 102(e) as being anticipated by Spinelli et al. (U.S. Patent No. 6,611,712). Claims 1, 6-8, 10, 11 and 16-19 were rejected under 35 USC § 102(b) as being anticipated by Bolz et al. (U.S. Patent No. 5,609,611). Claims 2-5, 9, 12-15 and 20 were rejected under 35 USC § 103(a) as being unpatentable over Bolz et al. (U.S. Patent No. 5,609,611) in view of Spinelli et al. (U.S. Patent No. 6,611,712).

With respect to the section 102 and 103 rejections based upon Spinelli et al., applicant notes that the filing date of the Spinelli patent is December 26, 2000. The present application is a continuation of U.S. Patent Application Serial No. 09/540,388 (now U.S. Patent No. 6,615,089) filed on March 31, 2000 for which priority has been claimed under 35 USC 120. The Spinelli patent is thus not prior art to the present application under 35 USC 102(e), and withdrawal of the rejections based upon the Spinelli reference is respectfully requested.

Regarding the rejection of claims 1, 6-8, 10, 11 and 16-19 under 35 USC § 102(b), the office action states that “(t)he examiner is interpreting control switch 17 to comprise a switching circuit and the alignment operation to comprise a capture verification test.” Applicant believes this to be a mischaracterization of what Bolz actually teaches. As best understood, Bolz teaches a pacing apparatus in which cardiac stimulation pulses are delivered by an electrode and evoked potentials are sensed by the same electrode. In order to reduce the effects of afterpotentials caused by the stimulation pulses on the sensing of evoked potentials, the afterpotential following a stimulation pulse is reduced by shorting the electrode for a brief period using an “autoshort” pulse. The “alignment operation” described in Bolz which is implemented by switch 17 refers to the optimal adjustment of the timing of the autoshort pulse. It thus appears to applicant that no teaching or suggestion is found in Bolz for the use of a switching circuit to switch an input of an evoked potential sensing channel to a selected electrode of a sensing/pacing channel in order to

perform a capture verification test on that channel as recited by claims 1 and 11 in terms of an apparatus and method, respectively. The use of such a switching circuit to configure the evoked potential sensing channel allows for the sensing of evoked potentials from multiple pacing channels and makes unnecessary the means for reducing afterpotentials as taught by Bolz. Applicant therefore believes the recitations of claims 1 and 11, as well as claims 6-8, 10, and 16-19 depending therefrom, to be patentable over the teachings of Bolz. Withdrawal of the rejections is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

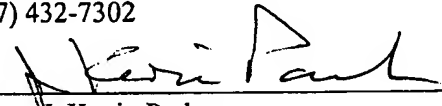
Respectfully submitted,

RENOLD J. RUSSIE ET AL.

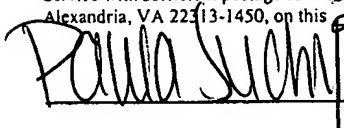
By their Representatives,

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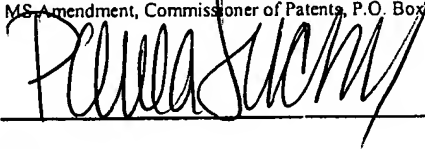
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By   
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